

Appendix B

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JANET NAPOLITANO
GOVERNOR



MICHAEL BRANHAM
DIRECTOR

January 27, 2006

Jacqueline Cuncannan, Esq.
Senior Trial Attorney
US Department of Justice
Special Litigation Section
950 Pennsylvania Avenue NW - PHB5730
Washington, DC 20530

Dear Ms. Cuncannan:

As we discussed on the telephone on November 15, 2005, I am writing on behalf of the Arizona Department of Juvenile Corrections to propose a minor change in language in the Memorandum of Agreement Between the United States Department of Justice and the State of Arizona Concerning Adobe Mountain School, Black Canyon, and Catalina Mountain School on September 15, 2004. Currently, UFN 4.2.4.2 reads as follows:

2. (4.2) Protection from Harm

* * *

- (d) (4.2.4) Each youth who reports to the Health unit with an injury shall be questioned by a nurse or other health care provider outside the hearing of other staff or youths, regarding the cause of the injury. If, in the course of the youth's infirmary visit, a health care provider suspects abuse, that health care provider shall immediately:

* * *

- (2) (4.2.4.2) report the suspected abuse to the Investigations and Inspections Unit, which shall in turn report it to the local Child Protective Services office;

The proposed change is for UFN 4.2.4.2 and would change the agreement as follows:

- (2) (4.2.4.2) report the suspected abuse to the Investigations and Inspections Unit, which shall in turn report it to the local Child Protective Services office, *in accordance with Arizona state law.*

As we agreed, the proposed additional language merely parallels the language in UFN 4.2.5, which requires referral of allegations of abuse to be referred to Child Protective Services in accordance with Arizona state law. The qualifier, "in accordance with Arizona state law," was inserted in that paragraph in recognition Arizona law, past practice, and the intent of the parties in drafting the agreement.


ARS § 13- 3620 sets forth the mandatory reporting requirements for various professionals who work with children. It mandates that reports be made to local law enforcement *or* Child Protective Services (CPS). Historically, ADJC reported all allegation of abuse within our secure schools to CPS, but CPS would not investigate them, citing ADJC's Investigations and Inspections Unit as a local law enforcement agency empowered to investigate such cases.

As you are aware, ADJC administrators have met with representatives of CPS, including one of the assistant attorneys general who represents them. CPS takes the position that they have no authority to investigate allegations of child abuse outside a child's home. Rather, they maintain that investigations in those instances must be conducted by local law enforcement. In this case, "local law enforcement" means ADJC's Investigations and Inspections Unit (I & I), several members of which are certified peace officers in the state of Arizona. The change of language proposed above will enable ADJC to achieve compliance with UFN 4.2.4.2 without requiring action on the part of CPS, which is not a party to the CRIPA agreement.

During our conference call in November, we also agreed that ADJC's Quality Assurance Unit will undertake the random review of abuse investigations conducted by I & I staff. In addition, the Department will publicize the regulatory role of the Arizona Peace Officers Standards and Training Board (AZPOST). That agency investigates complaints regarding the professional conduct of peace officers it certifies. The role of AZPOST and the process for filing a complaint will be explained to youth, their families, and staff. Details of the implementation of these measures will be discussed with the Consultants' Committee during their next visit.

If the language change suggested in this letter is satisfactory, please sign this letter below. Should you have any questions, do not hesitate to contact me.

Sincerely,



Louis A. Goodman
Assistant Director

cc: Russell Van Vleet, Chair, Consultants Committee
Michael Branham, Director
John Dempsey, I & I Administrator
Grady Daniels, CRIPA Administrator

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SYC:DW:JKC:FG:DB:AN
DJ 168-8-35
DJ 168-8-39
DJ 168-8-41

February 14, 2006

Louis A. Goodman, Esq.
Legal System Division Director
1624 West Adams Street
Phoenix, Az 85007

Re: Arizona Juvenile Facilities

Dear Mr. Goodman:

We received your letter of January 27, 2006, in which the Arizona Department of Juvenile Corrections ("ADJC") proposes that a modification be made to Section B.2.(d)(2) of the Agreement (UFN 4.2.4.2. of the Consultants Committee reports), to conform with Child Protective Services' interpretation of Arizona state law, ARS § 13-3620. In your letter, ADJC proposes adding a clause to Section B.2.(d)(2) so that it reads as follows:

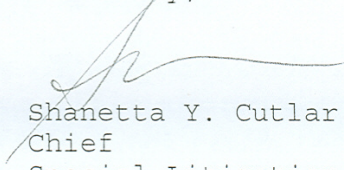
Each youth who reports to the Health unit with an injury shall be questioned by a nurse or other health care provider outside the hearing of other staff or youths, regarding the cause of the injury. If, in the course of the youth's infirmity visit, a health care provider suspects abuse, that health care provider shall immediately...report the suspected abuse to the Investigations and Inspections Unit, which shall in turn report it to the local Child Protective Services, in accordance with State law.

(proposed language in italics). ADJC also proposes that its Quality Assurance Unit ("QA") undertake random reviews of abuse investigations conducted by the Investigations and Inspections Unit ("I&I"). Additionally, your letter states that ADJC will publicize the regulatory role of the Arizona Peace Officers Standards and Training Board ("AZPOST") to youth, their family members, and staff.

We find ADJC's proposal to modify Section B.2.(d)(2) as set forth above, to conduct QA audits of I&I abuse investigations, and to publicize the regulatory role of the AZPOST to be a satisfactory resolution of this matter. Accordingly, we agree to the terms set forth above.

Thank you for your attention to this matter.

Sincerely,


Shanetta Y. Cutlar
Chief
Special Litigation Section

cc: Russell Van Vleet, Chair
Consultants Committee

As per the letter to the Arizona Department of Juvenile Corrections dated 11/15/04, regarding the result of the Arizona Department of Juvenile Corrections' (ADJC) investigation of the alleged sexual abuse of a youth in the Memorandum of Agreement between the ADJC and the Department of Justice and the State of Arizona Concerning Adolescent Abuse, dated 11/15/04, and California Mountains School on September 15, 2004. Currently, CTR 4.2.4.2 reads as follows:

2. (4.2) Protection from Abuse

(d) (4.2.4) Each youth who reports to the Health unit with an injury shall be questioned by a nurse or other health care provider outside the hearing of other staff or youths, regarding the cause of the injury. If, in the course of the youth's infirmary visit, a health care provider

(2) (4.2.4.2) report the suspected abuse to the Investigations and Inspections Unit, which shall in turn report to the local Child Protective Services office;